

Mark N. Mutterperl
FULBRIGHT & JAWORSKI L.L.P.
666 Fifth Avenue
New York, New York 10103
Tel: (212) 318-3000
Fax: (212) 318-3400
Attorneys for Plaintiff Research in Motion Limited

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RESEARCH IN MOTION LIMITED,	x	
	:	
<i>Plaintiff,</i>	:	
	:	
-against-	:	CIVIL ACTION NO. _____
	:	
MOFTWARE LLC, AMZER, PINAKIN	:	DECLARATION OF DAVID ROOKE
DINESH, JOHN DOES 1-50; and XYZ	:	
BUSINESSES,	x	
<i>Defendant.</i>		

I, David Rooke, declare as follows, under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I have been employed by Research in Motion Limited (“RIM”) since 2000, and I am Director, Supplier Quality Engineering. I make this declaration on personal knowledge.

2. In February 2008, a group under my supervision was charged with analyzing the integrity of the following batteries: (i) Wireless Accessories BBB8800 BlackBerry (which I understand was purchased from BlackBerryKing.com); (ii) Wireless Accessories BBB8800 BlackBerry (which I understand was purchased from Fommy.com); and (iii) an unbranded “BAT-11005-001 for BlackBerry 8800H” battery (which I understand was purchased from Fommy.com) (all batteries are collectively referred to herein as “the Batteries”). It is my understanding that all Batteries were shipped from Fommy.com and sent to RIM by counsel.

Upon inspection, we determined that all of the Batteries are not genuine RIM batteries and are therefore allegedly counterfeit.

3. As used herein, the term “primary packaging” refers to the physical battery casing itself and the labeling thereon (*e.g.* the label affixed to the battery itself).

4. The Wireless Accessories BBB8800 BlackBerry battery is allegedly counterfeit for at least the following reasons:

4.1 The Wireless Accessories BBB8800 battery primary packaging constitutes a label similar to the genuine RIM battery for the 8800 series, including: a rayed background comprised of thick and thin lines, wherein the thick lines are of a uniform dark shade of green and the thin lines are of a uniform light shade of green; the lines appearing to originate at a common nucleus off the left side of the battery and diverge across the battery from left to right in an expanding sunburst-style pattern; and a registered RIM dataflow trademark (Registration Nos. 3105797 and 3240231) located on the top-left of the battery. Unlike the genuine RIM BlackBerry battery for the 8800 series, however, the Wireless Accessories BBB8800 battery has: the RIM dataflow trademark followed by “OP” on the bottom right of the battery; “FOR BLACKBERRY 8800/8830 C-X2 Li-ION 1200mAh STANDARD BATTERY” imprinted in the top-right hand corner of the label; and different Pantone® colors which are lighter greens.

4.2 Unlike the genuine RIM battery, the Wireless Accessories BBB8800 label omits all Chinese characters.

4.3 X-rays reveal that the Wireless Accessories BBB8800 battery lacks several of the required safety features designed to protect the public contained in all genuine RIM batteries. The lack of these safety features can result in potential hazards including explosions, fire, or leakage of contents including toxic substances.

4.4 Following is a view of the allegedly counterfeit BBB8800 battery next to the genuine RIM battery:

**BLACKBERRYKING.COM/FOMMY.COM
BBB8800 BATTERY**

RIM 8800 SERIES BATTERY



5. The FOMMY.COM BAT-11005-001 for BlackBerry 8800H battery is allegedly counterfeit for at least the following reasons:

5.1 Like the genuine RIM battery for the 8800 series, the unbranded BAT-11005-001 for BlackBerry 8800H battery label has imprinted upon it: "For BlackBerry," "C-X2" followed by a lock icon, and the "BAT-11005-011" part number. Unlike the genuine RIM battery 8800 series, the unbranded BAT-11005-001 for BlackBerry 8800H battery primary packaging constitutes a teal label around a rectangular casing. The casing is also much thicker than genuine RIM batteries for the 8800 series.

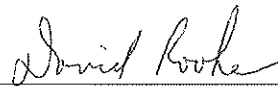
5.2 X-rays reveal that, the unbranded BAT-11005-001 FOR BlackBerry 8800H battery lacks several of the required safety features designed to protect the public contained in all genuine RIM batteries. The lack of these safety features can result in potential hazards including explosions, fire, or leakage of contents including toxic substances.

6. The testing also reveals that unlike the genuine RIM batteries, the allegedly counterfeit Batteries also do not uniformly apply a water ingress label that detects the presence of liquids in the battery.

7. The testing further reveals that the Batteries do not comply with the IEEE 1725 industry standard. The IEEE 1725 industry sets uniform criteria for the design, production, and evaluation of cellular phone batteries. The standard is promulgated by the IEEE Standards Organization, a global standards-setting body that develops industry consensus standards. The testing disclosed that the Batteries lack safety features required by the IEEE 1725 standard.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 27, 2008



David Rooke